

§ 1952.221

Project Officer, Office of State and Federal Operations, February 14, 1973, submitting additions and deletions to the plan.

(3) Letter from Edward C. Nichols, Jr., Staff Attorney for the Department of Labor, to Henry Baker, May 30, 1973, submitting a “red tag” provision which was signed into law by the Governor of Tennessee on April 5, 1973.

(4) Letter from Ben O. Gibbs, Commissioner of Labor and Eugene W. Fowinkle, Commissioner of Public Health, to Thomas C. Brown, Director, Office of Federal and State Operations, June 15, 1973, submitting proposed amendments and clarifications to the plan.

(e) The public comments will also be available for inspection and copying with the plan documents.

[38 FR 17840, July 5, 1973, as amended at 50 FR 29669, July 22, 1985]

§ 1952.221 Developmental schedule.

The Tennessee state plan is developmental. The following is the developmental schedule as provided by the plan:

(a) Formal adoption of Federal standards immediately upon approval of State plan. (Existing State standards were repealed by the enabling legislation). Enforcement of standards commences immediately upon promulgation.

(b) Amendments to legislation to be submitted to 1974 State legislative session.

(c) Regulations for recordkeeping and reporting will be promulgated upon plan approval.

(d) Regulations for inspections, citations, and proposed penalties will be promulgated immediately upon plan approval.

(e) Variances regulations will be promulgated within 60 days of plan approval.

(f) Manual Management data system operational July 1, 1973. Automated Management data system operational January 1, 1974.

[38 FR 17840, July 5, 1973. Redesignated at 50 FR 29669, July 22, 1985]

29 CFR Ch. XVII (7-1-11 Edition)

§ 1952.222 Completed developmental steps.

(a) In accordance with § 1952.223(b), the Tennessee Occupational Safety and Health Act of 1972 was amended by Chapter 585, Public Acts of 1974, on March 20, 1974, with an effective date of July 1, 1974 and approved by the Secretary of Labor in August 15, 1975 (40 FR 36556). Further State-initiated amendments to the Act transferring all occupational safety and health responsibility to the Commissioner of Labor were promulgated effective July 1, 1977, and approved by the Assistant Secretary on May 3, 1978.

(b) In accordance with § 1952.223(d), regulations governing inspections, citations, and proposed penalties were originally promulgated by the Commissioner of Labor on July 2, 1973 (effective July 13, 1973) and approved by the Assistant Secretary on August 15, 1975 (40 FR 36556). These regulations were subsequently codified as Tennessee Department of Labor Chapter 0800-1-4 and reapproved by the Assistant Secretary, as amended, on May 3, 1978. The Tennessee Commissioner of Public Health promulgated parallel regulations on April 3, 1974 (effective May 3, 1974) which were also approved on August 15, 1975. These Department of Public Health regulations became inoperative on July 1, 1977.

(c) In accordance with § 1952.223(e), regulations governing temporary variances were promulgated by the Commissioner of Labor on July 2, 1973 (effective July 13, 1973) and approved by the Assistant Secretary on August 15, 1975, (40 FR 36566). These regulations, which were subsequently codified as Tennessee Department of Labor Chapter 0800-1-2, were expanded to include permanent variances, and amended in response to Federal comment, and reapproved by the Assistant Secretary on May 3, 1978. The Commissioner of Public Health promulgated regulations dealing with temporary variances on April 3, 1974, (effective May 3, 1974) which were also approved by the Secretary on August 15, 1975. These Department of Public Health regulations became inoperative on July 1, 1977.

(d) In accordance with the requirements of 29 CFR 1952.10, the Tennessee occupational safety and health poster

for private employers and local government employers choosing to be treated as private employers was approved by the Assistant Secretary on August 15, 1975. In addition, a Tennessee occupational safety and health poster for public employees was approved by the Assistant Secretary on May 3, 1978.

(e) In accordance with § 1952.223(a) the Tennessee occupational safety and health standards identical to Federal standards (through December 26, 1974) have been promulgated and approved, as revised, by the Assistant Regional Director on March 31, 1975 (40 FR 14383).

(f) In accordance with § 1952.223(f) Tennessee implemented a manual management information system in July 1973, and converted to an automated system in July 1975.

(g) In accordance with plan commitments, regulations governing Occupational Safety and Health Record-keeping and Reporting (Chapter 0800-1-3) were promulgated by the Tennessee Department of Labor on June 10, 1974, and subsequently amended on April 15, 1976, July 14, 1977, August 15, 1977 and February 13, 1978. These regulations, which contain requirements essentially identical to the Federal 29 CFR part 1904, were approved by the Assistant Secretary on May 3, 1978.

(h) In accordance with plan commitments, the Tennessee Occupational Safety and Health Review Commission promulgated regulations governing its operation on May 5, 1974 (Chapters 1030-1 through 1030-7). These regulations were subsequently amended in response to Federal comment on February 13, 1978, and approved by the Assistant Secretary on May 3, 1978.

(i) In accordance with plan commitments, Tennessee revised its original Compliance Operations Manual on May 19, 1975. The manual which was subsequently amended in response to Federal comment and to reflect all Federal procedures in effect as of December 1, 1976, was approved by the Assistant Secretary on May 3, 1978.

(j) In accordance with State plan commitments, a Tennessee Public Employee plan and implementing regulations (Tennessee Department of Labor Chapter 0800-1-5) have been adopted and were approved by the Assistant Secretary on May 3, 1978.

(k) In accordance with § 1902.34 of this chapter, the Tennessee occupational safety and health plan received certification, effective May 3, 1978, as having completed all developmental steps specified in its plan as approved on June 28, 1973, on or before July 1, 1976.

[40 FR 36567, Aug. 21, 1975, as amended at 42 FR 58747, Nov. 11, 1977; 43 FR 20982-20986, May 16, 1978. Redesignated at 50 FR 29669, July 22, 1985]

§ 1952.223 Compliance staffing benchmarks.

Under the terms of the 1978 Court Order in *AFL-CIO v. Marshall* compliance staffing levels (benchmarks) necessary for a "fully effective" enforcement program were required to be established for each State operating an approved State plan. In September 1984 Tennessee, in conjunction with OSHA, completed a reassessment of the levels initially established in 1980 and proposed revised compliance staffing benchmarks of 22 safety and 14 health compliance officers. After opportunity for public comment and service on the AFL-CIO, the Assistant Secretary approved these revised staffing requirements on July 22, 1985.

[50 FR 29669, July 22, 1985]

§ 1952.224 Final approval determination.

(a) In accordance with section 18(e) of the Act and procedures in 29 CFR part 1902, and after determination that the State met the "fully effective" compliance staffing benchmarks as revised in 1984 in response to a Court Order in *AFL-CIO v. Marshall* (CA 74-406), and was satisfactorily providing reports to OSHA through participation in the Federal-State Unified Management Information System, the Assistant Secretary evaluated actual operations under the Tennessee State plan for a period of at least one year following certification of completion of developmental steps (43 FR 20980). Based on the 18(e) Evaluation Report for the period of October 1982 through March 1984, and after opportunity for public comment, the Assistant Secretary determined that in operation the State of Tennessee's occupational safety health program is at least as effective as the Federal program in providing safe and